

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION**

CHARLES M. MURPHY, JR.,)
Plaintiff,)
v.) Civil No. 1:07-0068
COLLEEN KOLLAR-KOTELLY, et al.,) Judge Trauger
Defendants.) Magistrate Judge Knowles

MEMORANDUM AND ORDER

The plaintiff has filed a “Motion for...Reconsideration of the Clerk’s Denial of a Default Judgment to the Original Complaint.” (Docket No. 47) The Clerk denied the plaintiff’s Motion for Judgment by Default (Docket No. 28) because service has not been made in accordance with Federal Rule of Civil Procedure 4(i). (Docket No. 29)

The plaintiff complains that the Clerk’s action was without basis because the plaintiff claims that the Clerk cited to a subsection of Rule 4 related to “Alternative Provisions for Service in a Foreign Country.” (Docket No. 47 at 1) The plaintiff is in error. The Clerk cited to subsection (i) of Rule 4, which governs service upon the United States, its officers and employees. Rule 4(i), provides as follows:

(i) Serving the United States and Its Agencies, Corporations, Officers or Employees.

(1) *United States.* To serve the United States, a party must:

(A)(i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought - or to an assistant United States Attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk - or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney’s office;

(B) send a copy of each by registered or certified mail to the Attorney General of

the United States at Washington, D.C.; and

(C) if the action challenges an order of a non-party agency or officer of the United States, send a copy of each by registered or certified mail to the agency or officer.

(2) *Agency; Corporation; Officer or Employee Sued in an Official Capacity.* To serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer or employee.

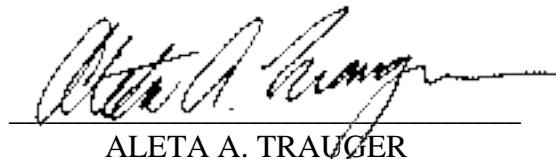
(3) *Office or Employee Sued Individually.* To serve a United States officer or employee sued in an individual capacity for an act or omission occurring in connection with duties performed on the United States' behalf (whether or not the officer or employee is also sued in an official capacity, a party must serve the United States and also serve the officer or employee under Rule 4(e), (f), or (g)).

Rule 4(i), Fed.R.Civ.P. The record reflects only that all or most of the individual federal defendants have been served by certified mail. This service, alone, is entirely insufficient to comply with Rule 4(i). The Clerk's denial of entry of default was entirely appropriate. The plaintiff's Motion for Reconsideration of that action (Docket No. 47) is DENIED.

Because proper service has not been made upon the defendants, the plaintiff's additional request in this same motion "for a Judgment by Default as to the Claim under the Amendment to the Complaint" is DENIED as well.

It is so **ORDERED.**

Enter this 1st day of April 2008.



ALETA A. TRAUGER
U.S. District Judge